

Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed November 18, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D09-1884
Lower Tribunal No. 08-6850

Coastal Building Maintenance, Inc., etc.
Appellant,

vs.

Bertilia Priegues,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Maxine Cohen Lando, Judge.

Knecht & Knecht and Harold C. Knecht, Jr., for appellant.

Lawrence J. McGuinness; Billbrough & Marks and G. Bart Billbrough, for appellee.

Before SUAREZ, SALTER, JJ., and SCHWARTZ, Senior Judge.

SUAREZ, J.

On Motion to Dismiss

Appellee, claimant, Bertilia Priegues, moves to dismiss the appeal of a non-final order denying the employer's, Coastal Building Maintenance, Inc.'s ("Coastal"), motion for summary judgment based on workers' compensation immunity. We grant the motion to dismiss.

As conceded by Coastal, this Court finds that the order denying the motion for summary judgment is neither reviewable under Florida Rule of Appellate Procedure 9.130 as a non-final order nor under the certiorari jurisdiction of this court. See Fla. R. App. P. 9.030 (b)(2). The order below does not make a determination on the issue of workers' compensation immunity. It is simply an order denying a motion for summary judgment for insufficient evidence to support a summary judgment on the defense of workers' compensation immunity. The order lacked the required designation "that, as a matter of law, [the claimant] was not entitled to workers' compensation immunity," which makes it appealable as a non-final order. See Fla. R. App. P. 9.130(a)(3)(C)(v); Reeves v. Fleetwood Homes, 889 So. 2d 812 (Fla. 2004).

Dismissed.